



*Ginger*  
Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert K. Corbin

February 20, 1981

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ARIZONA ATTORNEY GENERAL

Mr. William J. Ekstrom, Jr.  
Mohave County Attorney  
Mohave County Courthouse  
Kingman, Arizona 86401

Re: I81-037(R81-007)

Dear Mr. Ekstrom:

Pursuant to A.R.S. § 15-253.B, we decline to review your opinion dated January 5, 1981 to the Superintendent of Lake Havasu School District No. 25 concerning the upcoming election for the discontinuance of the Mohave County Union High School District.

Sincerely,

*Bob Corbin*

BOB CORBIN  
Attorney General

BC:clp

# MOHAVE COUNTY ATTORNEY

MOHAVE COUNTY COURTHOUSE • KINGMAN • ARIZONA 86401



OPINION NO.  
81-1

WILLIAM J. EKSTROM, JR.  
County Attorney

January 5, 1981

1-15-81 pc  
POLLARD  
R81-007

H. Allen Shockley, Ph.D.  
Superintendent of Schools  
Lake Havasu School District No. 25  
750 Havasupai Boulevard  
Lake Havasu City, Arizona 86403

EDUCATION OPINION

ISSUE NO LATER THAN

3-16-81

Re: Impact of February 10, 1981, Election to Discontinue  
the Mohave County Union High School District

Dear Dr. Shockley:

You have requested an opinion concerning the upcoming election for discontinuance of the Mohave County Union High School District and the impact of a favorable vote on existing districts, their assets and employees. Your questions will be addressed below in the order in which they were presented in your letter.

1. What effect would the election have on teachers' rights and benefits?

The purpose of the teachers' tenure laws, A.R.S. §15-251, et seq., is to protect worthy instructors, after a long period of satisfactory performance, from unfair or politically motivated dismissals or reduction in salary. Under the law, teachers are afforded a significant property right to continued employment which may be taken away only for cause and then only after due process as provided by law. In view of the constitutional dimension of the continuing teachers' right to and expectation of employment, the teachers' tenure act should be given as liberal an interpretation as necessary to carry out its obvious purposes. (See Op. Atty. Gen. No. 71-12.)

A favorable vote in the pending election will have no tangible effect on the teachers, the classroom in which they teach or their professional relationship with the newly formed districts. Teachers who have acquired tenure have already proven themselves in terms of professional competence and ability to the extent that any

reevaluation would, as a practical matter, seem to be meaningless and unnecessary. Moreover, it would certainly seem unfair to cast aside years of faithful service simply because of what is no more than a cosmetic change in school boundaries or administration.

The newly created boards will possess broad contractual powers in administering the district in a manner consistent with the public interest. Accordingly, it is our opinion that the new boards, by resolution, may continue tenure and other teachers' rights and benefits as though no change had taken place. This opinion is based upon the assumption that the respective boards fully intend to maintain the status quo in their relationship with teachers and, therefore, we have not addressed the issue in terms of vested rights or ultimate liability of the districts. It should be noted, however, that the procedural due process given tenured teachers through the statutes has been substantially afforded almost all public employees under recent case law.

2 On what basis will assets and liabilities of the discontinued district be divided among the resulting districts?

The status of liabilities will remain substantially the same with residents of the present district being taxed for district indebtedness until such indebtedness is retired.

The assets of the existing district will be equitably distributed on a pro rata basis according to student count. The County Board of Supervisors must approve the distribution in accordance with A.R.S. §15-525(B) and the actual distribution should be agreed upon between the respective school boards and presented to the County Board for approval. In the event that the districts are unable to agree upon an equitable distribution, a court action is available as a final alternative. It would be advisable upon passage of the question to form committees to undertake the task of proposing a distribution of assets which will be satisfactory to all parties. It is my understanding that the ultimate division of assets will reflect a roughly one-third to two-thirds division of the existing district and that every effort will be made to effect a smooth and orderly transition.

H. Allen Shockley, Ph.D.  
January 5, 1981  
Page Three

3. When will the newly formed districts take effect and what will be the status of the respective school boards?

In the event of a favorable vote in the February 10 election, the new districts will begin operation on July 1, 1982. On December 1, 1981, the County School Superintendent will file a transcript of the boundaries with the Board of Supervisors and the County Assessor and they will become the legal boundaries as of July 1, 1982.

The election will result in formation of two new districts, a high school district with boundaries coterminous with the existing Lake Havasu Elementary School District and a union high school district with boundaries encompassing all the territory of the former county union high school district exclusive of territory located within the present Lake Havasu Elementary School District.

The Board of Trustees for the high school district in Lake Havasu City will be composed of the same individuals who are trustees of School District No. 25 pursuant to A.R.S. §15-541. That statute holds that if a single high school district and a common school district have coterminous boundaries the common school board will be the board of the high school. Unification of the high school and elementary school may be made by resolution of the board sitting in its respective capacities for each district. In accordance with A.R.S. §15-491(C), unification shall become effective on July 1 of the fiscal year following such resolution. (Our comments regarding tenure and teacher benefits would also apply to this change in boundaries, particularly in light of A.R.S. §15-261 which mandates preservation of tenure upon transfer of a teacher between common and high school districts with coterminous boundaries.)

Selection of trustees for the newly formed union high school district would be by the County School Superintendent as set forth in A.R.S. §15-542(D)(1). These trustees will hold office until January 1 following the next general election.


R81- 007

Allen Shockley, Ph.D.  
January 5, 1981  
Page Four

This opinion is meant to supplement Mr. David Babbitt's opinion of February 23, 1979. However, if inconsistencies exist, this opinion will prevail.

Certainly there are many questions which we have not as yet addressed and you have my assurance that we will promptly provide written answers to these questions as they arise. If we can be of further assistance, please let us know.

Very truly yours,

  
WILLIAM J. EKSTROM, JR.  
Mohave County Attorney

WJE:sd